

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date: 4-12-74 (pltfs.)

D. C. Form No. 106A Rev.

TITLE OF CASE	ATTORNEYS
<p>SECURITY STATE BANK OF WEWOKA, SOUTHWESTERN BANK & TRUST COMPANY OF OKLAHOMA CITY, and STEWART SECURITIES and Billie F. Gaither, Intervening Pltf. VS</p> <p>METCALF STATE BANK</p> <p>David L. Wolfe, Jr. (SW Bk. & Tr. Co.) 2900 Liberty Tower Oklahoma City, Ok. 73102</p> <p>Jack I. Gaither (for Intervening Pltf.) Law Building 500 West 7, Tulsa, Ok. 74119</p>	<p>For plaintiff:</p> <p>William G. Paul, Harry A. Woods, Jr. Crowe, Dunlevy, Thweatt, Swinford, Johnson & Burdick 1700 Liberty Tower, 100 Broadway Okla. City, Okla. 73102 (405) 232-0661 (Security & S'Western)</p> <p>Joel L. Wohlgemuth Rizley, Prichard, Ford, Norman & Reed 1100 Philtower Building Tulsa, Oklahoma 74103 (Stewart) Attorneys for Deft.</p> <hr/> <p>Paul Johanning HIRSH, JOHANNING & HUDSON 2050 Liberty Tower Okla. City, Okla. 73102</p> <p>Bill R. Scarth BASSMAN For defendant; GORDON, MAYBERRY & SCARTH 212 South Missouri St. Claremore, Okla. 74017</p> <p>John M. Imel MARTIN, LOGAN, MOYERS, MARTIN & CONWAY 920 National Bank of Tulsa Bldg. Tulsa, Okla. 74103</p> <p>David L. Wolfe, Jr. 2900 Liberty Tower OKC 73102 (Southwestern Bank & Trust Co. of OKC)</p>

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 5-1-74 12-22-75	Clerk	4/12/74	Crowe	15 00	
		4-18-74	C/D #41		15 00
		7/31/74	Rima	10.00	
J.S. 6 mailed 8-1-74 9-1-77	Marshal	8-1-74	C/D #5		10 00
Basis of Action: Breach of written contract & breach of fiduciary duty	Docket fee				
	Witness fees				
Action arose at:	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
4-12-74	1. Complaint, filed. Summons issued. hm	
5-13-74	2. Application and order to extend time to plead or answer for 15 days from 5-13-74, filed. (Order by Clerk) ds	
5-21-74	Return on service of summons, filed. ds Served Ben Craig at Overland Park, Ks. on 4-23-74. (\$7.84)	
5-22-74	3. Plaintiff's request for production of documents, filed. g	
5-22-74	4. Plaintiff's notice to take depositions of Don Dodd, Ben Craig and R. Stanley Ladley, filed. Subpoenae issued. g Richard A. Legate	
5-28-74	5. Pltf's first supplemental notice to take depositions, filed. Subpoena issued. g	
5-28-74	6. Motion to Dismiss, filed. e	
5-28-74	7. Memorandum in Support of Mo/ to Dismiss, filed. e	
5-28-74	MO: Ordered that pltfs are granted 10 days from this date to respond to defts' Motion to Dismiss. (AEB-J)e 10 days from 5-28-74	
6-10-74	8. Memorandum in Opposition to Motion to Dismiss, filed.s	
6-10-74	9. Brief in opposition to the Defendant's Motion to dismiss, filed .s	
6-17-74	10. Mtn. to Intervene as Pltf, filed by Billie F. Gaither.jj	
6-17-74	11. Brief in Support of Mtn. to Intervene as Pltf., filed.jj O to J	
6-18-74	12. Order, filed permitting Billie F. Gaither to intervene as additional plaintiff. (AEB-J)g	
6-18-74	13. Complaint in intervention, filed. g	
6-19-74	14 Notice to take deposition of Roy G. Miller on behalf of pltf., filed. Subpoena issued. g	
6-25-74	15. Deposition of Donn Dodd on behalf of plntf.(\$35.20) filed. lm	
7-1-74	16. Order sustaining defendant's motion to dismiss and dismissing complaint and causes of action, filed & entered. (AEB-J)g	
7-31-74	17. Notice of appeal by pltf. Stewart Securities from Order of 7/1/74, filed. rm (copies to counsel and USCA)	
7-31-74	18. Bond of pltf. Stewart Securities for costs on appeal (\$250 cash), filed. rm	
7-31-74	19. Notice of appeal by pltf. SW Bank & Tr. from Order of 7/1/74, filed. rm (copies to counsel and USCA)	
7-31-74	20. Bond of pltf. SW Bank for costs on appeal (\$250 cash) filed.rm	
8-1-74	21. Entry of appearance of David L. Wolfe, Jr. on behalf of Southwestern Bank & Tru. Co. of Okla. City, filed. g	
8-23-74	Appeal record (1 vol.) sent to USCA. g	

DATE	PROCEEDINGS	Date Order or Judgment Noted
8-28-74	Request (letter) of deft-appellee for inclusion of brief in appeal record, filed. g	
8-28-74	Supplemental appeal record sent to USCA. g	
12-22-75	Mandate and Opinion of USCA reversing judgment of 7-1-74 and remanding cause for further proceedings in accordance with the opinion, filed and spread of record. g	
12-22-75	USCA Bill of Costs, filed: costs in sum of \$130.00 taxed against appellees. g	
12-23 1976	Mot. to reintervene as pltf., fld. by Billie F. Gaither. v	
1-8	Appl. of def. Metcalf State Bank for ext. of time to ans., filed. rm (orig. to g)	
1-14	Original record on appeal (Vol. I and Suppl. Vol. I) recd. from USCA. rm	
1-16	Order granting deft. until 1-23-76 to plead or further answer, filed. (AEB-J)g cp. mld <i>part of appl</i>	
1-23	Answer, filed. lm	
1-23	Motion to Object to Reintervention of Billie F. Gaither as Pltf, filed. lm	
1-23	Memorandum Brief in Support of Motion to Object to Reintervention of Billie F. Gaither as Pltf., filed. lm	
1-23	MO: It is ordered by the Court that intervening pltf is given ten days from this date to file a responsive brief to deft's memorandum brief in support of motion to object to reintervention of Billie F. Gaither as pltf. (AEB-J) lm ltrs mld.	
1-26	27. Order, filed, directing Ct. Clk to disburse \$250 cash bond to Stewart Securities. (AEB-J)g	
1-28	MO: Case referred to Mag. Bradford for F&R re pending motions. (AEB-J)k	
2-2-76	28. Brf. of Movant, Billie F. Gaither, In support of Mot. to reintervene, filed. t	
2-6	29. Response of Metcalf State Bank to brief of Billie F. Gaither, filed. ph	
3-19	MO: Case set for hrg. before Mag. on pending mots. on 4-14-76 at 2:30 p.m. (MLB-Mag)k ntc by KT	
4-5	30. Mot. to withdraw as Co., filed by Wm. Paul & H. Woods, Jr. & Notice. b MO: The Court has for consideration the motion to withdraw as counsel for S.W. Bank & Tr. Co. of Okla. City & Security State Bk of Wewoka filed by Wm. Paul & Harry A. Woods, Jr., & being fully advised in the premises, finds: That the Motion to withdraw as counsel for S.W. Bk. & Tr., Co. Of Okla. City & Security St. Bk. of Wewoka filed by Wm. G. Paul & Harry A. Woods should be granted. It is So Ordered. (AEB-J)b lts mld	
4-6	MO: Case passed from hrg. on pending mots. from 4-14-76 at 2:30 p.m. to next motion docket. (MLB-Mag)k <i>mlt by KT</i>	

DATE	PROCEEDINGS	Date Order or Judgment Note
1976		
4-16	MO: Case set for hrg. on mots. before Mag. on 5-12-76 at 10:00 a.m. (MLB-Mag)k ntc by KT	
5-2	MO: Case called for hrg. before Mag. on pending mots. Parties present. Mag. finds that mot. of Billie Gaither to Re-intervene as party pltf. should be denied and that deft. Metcalf State Bank's mot. to obj. to such re-intervention be overruled as moot. Deft. counsel to prepare F&R and proposed Order w/in 5 days. (MLB-Mag)k	
5-19	31. Magistrate's Findings and Recommendations, filed. (MLB-Mag)k cps mld	
6-1	32 Order, filed, that Deft's. objection to reintervention of Billie F. Gaither as a Pltf. is sustained. (AEB-J)s cps. mld. Order entered.k	
6-22	MO: Parties are directed to hold PT conf. on or before 8-5-76 & file PT order on or before 8-11-76. (AEB-J)b cps by cert ml	
8-2	33. Pltfs' appli. for ext. of time thru' 9-11-76 because deft's counsel will be out of his office thru Aug ., filed.lm (o to J)	
8-4	34. Order, filed, granting pltfs. til 9-11-76 to file PT Order. (AEB-J)k cps mld	
9-13	35. Pltfs' application for ext. of time to file pre-trial order till 9-24-76, filed.s O to J	
9-16	36. Order, fld., granting ext. of time for filing of pretrial order until 9-24-76. (AEB-J)v -cps. mld.	
9-24	37. Pltfs' application for extension to time till 9-31-76 to file PT order, filed.s	
9-27	38. Order, filed, granting pltf. till 9-30-76 to file PT Order.s (AEB-J) cps. mld.	
9-30	39. Deft's application for extension of time till 10-15-76 to file PTO w/order attached, filed.s O to J	
10-4	Order, filed, granting deft. till 10-15-76 to file PTO.s (AEB-J) cps. mld.	
10-19	40. PT Order, filed. (AEB-J) lm cps mld.	
10-22	MO Case set for Jury trial on 11-22-76, at 9:30 A.M.s(AEB-J) nts. by cert. ml w/affid	
10-27	42. Pltfs' motion to continue jury trial from 11-22-76, filed.s O to J	
10-28	43. ORDER, filed, that pltf's motion be granted and the trial continued from 11-22-76. lm (AEB-J) cps mld	
12-6	MO: Case set for jury trial on 1-10-77, at 9:30 A.M. (AEB-J)b nts by cert ml w/affid.	
12-20	44. Joint appl. for continuance of trial, fld. v (o)	
12-20	45. Order, fld., granting extension of trial setting from the 1-10-77 docket. Parties to be notified when reset. (AEB-J)v -cps. mld.	
1-20-77	MO: Case set for jury trial on 2-22-77, at 10:00 A.M. (AEB-J)b nts by cert ml w/affid.	

D. C. 110A Rev. Civil Docket Continuation

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DATE 1977	PROCEEDINGS	Date Order or Judgment Noted
1-28	46. Joint application for Continuance of Trial, filed. b	
1-28	47. Order, filed, striking case from jury docket of 2-22-77. (AEB-J) b cps mld	
3-7	MO: Case set for jury trial on 4-11-77, at 9:30 A.M. (AEB-J) b nts mld cert. w/affid.	
3-9	Pltfs motion to continue jury trial. fld O to J. ho	
3-11	48. Order, filed, striking case from jury trial docket of 4-11-77, to be reset. (AEB-J) k cps mld	
4-12	MO: Case set for Jury trial on 5-9-77, at 9:30 A.M. (AEB-J) b nts cert ml w/affid.	
4-14	Pltf. Stewart Securities, mot. to continue Jury Trial. fld. ho	
4-18	Deposition of Gene Stewart on behalf of the Deft. taken on 3-24-77 before Frank L. Peterson, CSR, w/fees \$61.50 paid by Deft. fld. ho	
4-18	Deposition of John M. Reardon, On behalf of Deft. taken on 3-24-77 before Frank L. Peterson, CSR, w/fees \$93.00 paid by Deft. fld. ho	
5-2	Ordered, fld. granting a continuance of trial, parties will be notified by the clk. of the time and date the trial is to be reset. (AEB-J) cps mld. ho	
5-18	MO: Case set for jury trial on 6-6-77, at 9:30 A.M. (AEB-J) b nts mld cert. w/affid.	
5-23	Pltf. mot. to continue jury trial. fld. O to J by atty. ho	
5-24	49. Order, filed, striking case from jury docket of 6-6-77, to be reset upon order of the Court. (AEB-J) b cps mld	
7-12	MO: Case set for jury trial on 8-8-77, at 9:30 A.M. (AEB-J) b nts cert w/affid.	
7-15	Dep. of Richard Haden on behalf of plaintiffs, taken on 3-24-77 before Frank L. Peterson, CSR. \$117.00 paid by pltfs. rla	
8-3	50. Pltf. proposed instructions to the Jury. fld.	
8-3	51. Pltf. trial brief. fld. ho	
8-3	52. Deft. trial brief including list of witnesses and exhibits. fld. ho	
8-4	53. Pltfs' List of witnesses, filed. b	
8-4	54. Pltfs' exhibit affidavit, filed. b	
8-5	55. Deft's exhibit affidavit, Requested Instructions & witness list, filed. b	
8-8	MO: It Is Ordered by the Court that this case be stricken from the jury docket. (AEB-J) b nts by phone	
8-10	Sealed Document, filed & placed in Safe. (AEB-J) b	
8-10	MO: SUA SPONTE, IT IS ORDERED that this cause of action and complaint be and the same is hereby dismissed with prejudice. (AEB-J) b ltrs mld	
6-2-82	56 APPLIC of pltf for order for return of equivalent security for costs on appeal. (O 2bn) a	
6-9	57 ORDER for return of \$250.00 equivalent security for costs on appeal by Ct. Clk to Southwestern Bank & Trust Co. of Okla. City, Ok. (HDC-J) jc (c/atty)	

DATE	PROCEEDINGS	Date Order or Judgment Noted